

Executive Summary – Enforcement Matter – Case No. 51534

Kuraray America, Inc.

RN100212216

Docket No. 2015-1693-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective; and excessive emissions event.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Eval Business Unit, 11500 Bay Area Boulevard, Pasadena, Harris County

Type of Operation:

Petrochemical plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 25, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$25,000

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$12,500

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$12,500

Name of SEP: Houston Regional Monitoring Corporation (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: \$15,500

Applicable Penalty Policy: April 2014

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Kuraray America, Inc.
RN100212216
Docket No. 2015-1693-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 31, 2015
Date(s) of NOE(s): October 13, 2015

Violation Information

Failed to prevent unauthorized emissions. Since the emissions event could have been prevented by better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O1561, Special Terms and Conditions No. 16, New Source Review Permit No. 9576, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By June 24, 2015, the Respondent has implemented the following corrective measures at the Plant in order to prevent the recurrence of emissions events due to the same or similar cause as Incident No. 216212:

- a. Increased the amount of inhibitor to five gallons of Nalco EC-3085A as a waste load inhibitor;
- b. Implemented a maximum storage temperature of 100 degrees Fahrenheit; and
- c. Updated the assigned responsibility and prescribed temperature and inhibitor amount in the waste loading procedures.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Raime Hayes-Falero, Enforcement Division,
Enforcement Team 5, MC R-12, (713) 767-3567; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Robert Armstrong, Plant Manager, Kuraray America, Inc., 11500 Bay
Area Boulevard, Pasadena, Texas 77507

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-1693-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kuraray America, Inc.
Penalty Amount:	Twenty-Five Thousand Dollars (\$25,000)
SEP Offset Amount:	Twelve Thousand Five Hundred Dollars (\$12,500)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor ("HRM") 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Kuraray America, Inc.
Agreed Order - Attachment A

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	19-Oct-2015	Screening	10-Nov-2015	EPA Due	
	PCW	6-Jan-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Kuraray America, Inc.		
Reg. Ent. Ref. No.	RN100212216		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	51534	No. of Violations	1
Docket No.	2015-1693-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raime Hayes-Falero
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$25,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	87.0%	Adjustment	Subtotals 2, 3, & 7	\$21,750
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Notes: Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations, and four orders with denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$6,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$3
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$40,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$40,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$25,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$25,000
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Screening Date 10-Nov-2015

Docket No. 2015-1693-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51534

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Compliance History Worksheet>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 87%>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%>> **Compliance History Summary****Compliance History Notes**

Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations, and four orders with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 87%>> **Final Compliance History Adjustment****Final Adjustment Percentage *capped at 100%** 87%

Screening Date 10-Nov-2015

Docket No. 2015-1693-AIR-E

PCW

Respondent Kuraray America, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51534

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212216

Media [Statute] Air

Enf. Coordinator Ralme Hayes-Falero

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O1561, Special Terms and Conditions No. 16, New Source Review Permit No. 9576, Special Conditions No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 27,372 pounds ("lbs") of volatile organic compounds, including 15,178 lbs of hazardous air pollutants, from the Loading Rack Fugitives, Emission Point Number Area 5, during an avoidable emissions event (Incident No. 216212) that occurred on June 22, 2015 and lasted four hours and 45 minutes. The emissions event began when the polymerization of waste material caused a pressure increase above valve settings which led to the venting of materials to the atmosphere. Since the emissions event could have been prevented by better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 100.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	x
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$25,000

One daily event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$6,250

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent completed corrective action on June 24, 2015, before the October 13, 2015 Notice of Enforcement.

Violation Subtotal \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$40,500

This violation Final Assessed Penalty (adjusted for limits) \$25,000

Economic Benefit Worksheet

Respondent Kuraray America, Inc.
Case ID No. 51534
Reg. Ent. Reference No. RN100212216
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	22-Jun-2015	24-Jun-2015	0.01	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to increase the amount of inhibitor to five gallons of Nalco EC-3085A as a waste load inhibitor; implement a maximum storage temperature of 100 degrees Fahrenheit; and update the assigned responsibility and prescribed temperature and inhibitor amount in the waste loading procedures. The Date Required is the date the emissions event began and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$3



Compliance History Report

PUBLISHED Compliance History Report for CN603315953, RN100212216, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603315953, Kuraray America, Inc.

Classification: SATISFACTORY

Rating: 8.57

Regulated Entity: RN100212216, EVAL BUSINESS UNIT

Classification: SATISFACTORY

Rating: 20.89

Complexity Points: 16

Repeat Violator: NO

CH Group: 05 - Chemical Manufacturing

Location: 11500 BAY AREA BLVD PASADENA, TX 77507-1312, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG13100

AIR OPERATING PERMITS PERMIT 3011

AIR OPERATING PERMITS PERMIT 1561

POLLUTION PREVENTION PLANNING ID NUMBER P03126

AIR NEW SOURCE PERMITS PERMIT 9576

AIR NEW SOURCE PERMITS REGISTRATION 33413

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG13100

AIR NEW SOURCE PERMITS REGISTRATION 80133

AIR NEW SOURCE PERMITS REGISTRATION 121974

AIR NEW SOURCE PERMITS REGISTRATION 131327

AIR NEW SOURCE PERMITS REGISTRATION 121854

AIR NEW SOURCE PERMITS PERMIT 34401

AIR NEW SOURCE PERMITS REGISTRATION 76451

INDUSTRIAL AND HAZARDOUS WASTE EPA ID
TXD981148059

STORMWATER PERMIT TXR05AN06

AIR NEW SOURCE PERMITS REGISTRATION 28727

AIR NEW SOURCE PERMITS REGISTRATION 44286

AIR NEW SOURCE PERMITS AFS NUM 4820100404

AIR NEW SOURCE PERMITS REGISTRATION 81932

AIR NEW SOURCE PERMITS REGISTRATION 110519

AIR NEW SOURCE PERMITS REGISTRATION 136802

AIR NEW SOURCE PERMITS REGISTRATION 112197

AIR NEW SOURCE PERMITS REGISTRATION 72965

AIR NEW SOURCE PERMITS REGISTRATION 105936

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE
REGISTRATION # (SWR) 32728

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG13100

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: January 06, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 06, 2011 to January 06, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Raime Hayes-Falero

Phone: (713) 767-3567

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 05/25/2012 ADMINORDER 2011-1701-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Terms & Conditions 3(A)(iv)(3) OP

Description: Failed to maintain records of daily visible emission observations for all filter vents, quarterly visible emission observations for all stationary vents, and audio, olfactory and visual checks for anhydrous ammonia leaks during each shift during Plant operations.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.142(b)(2)(B)(i)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O1561, GT&C OP

Description: Failed to correctly list the proper applicable requirements for the main process vents (Emission Point No. MAINPROC) in FOP O-1561. Specifically, the vent gas streams exceeded the volatile organic compound concentration limit required to be exempt from 30 TEX. ADMIN. CODE § 115.121(a)(1).

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.880
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2382(b)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2386(b)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Terms & Conditions 1.H. OP

Description: Failed to submit the initial notification and semi-annual compliance reports for Units V5101, V5102, V5103, V5104, V5105, V5106, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5116, V5117, V5118, V5119, V5120, V5122AATK, V5123WATK, V5129, V5301, V5302, V5304, V5307, V5310, V5318, V5319, V5401, V5402, V5412, V8104VACTK, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart EEEE.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.890
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2515(b)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2520(b)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Terms & Conditions 1.I. OP

Description: Failed to submit the initial notification and semi-annual compliance reports for Units PRO1100LINE, PRO1200LINE, PRO1300LINE, PRO1400LINE, MEOHPRCVT1, MEOHPRCVT2, 407, AREA 1, AREA 2, AREA 3, AREA 4, AREA 5, PLANT, COOLTOW-A, COOLTOW-B, LOADUNLOAD, V5107, V5108, V5109, V5110, V5111, V5112, V5113, V5114, V5115, V5117, V5118, V5120, V5123WATK, V5129, V5307, V5310, V5318, V8105METK, V8107BRTK, V8301MEOAC, V8305 and V8307BRTK which are subject to 40 CFR Part 63, Subpart FFFF.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-1561, GT&C OP

Description: Failed to report all instances of deviation. Specifically, the semi-annual deviation reports for the April 15, 2010 through October 14, 2010 and October 14, 2010 through April 14, 2011 reporting periods did not include all instances of deviation for the time periods.

2 Effective Date: 04/21/2013 ADMINORDER 2012-1780-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 15E PERMIT

Special Term and Condition 13 OP

Special Term and Condition 1A OP

Description: Failure to maintain a cap, blind flange, plug, or a second valve on each open ended line. (Category B19(g)(6) violation)

3 Effective Date: 01/25/2014 ADMINORDER 2013-1156-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to submit the Permit Compliance Certification (PCC) within 30 days after the end of the certification period.
(Category A8(c)(1)(E))

4 Effective Date: 07/05/2014 ADMINORDER 2013-1820-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Federal Operating Permit No. 01561 OP
Description: Failure to submit a Permit Compliance Certification (PCC) no later than 30 days after the end of the PCC period.
(Category A12i7 Violation)

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	September 06, 2011	(944858)
Item 2	July 19, 2012	(1020614)
Item 3	July 25, 2012	(1021443)
Item 4	August 06, 2012	(1021540)
Item 5	June 09, 2014	(1166802)
Item 6	September 15, 2014	(1186431)
Item 7	July 15, 2015	(1261889)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 05/13/2015 (1229760)	CN603315953
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.11(d) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e) 5C THSC Chapter 382 382.085(b) ST&C 6C OP	
	Description: Failure to operate emission capture and abatement equipment properly. (category C4)	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii) 5C THSC Chapter 382 382.085(b) FOP O-3011, ST&C 11 OP SC 8 PERMIT ST&C, SC 1 A OP	
	Description: Failure to maintain the process flare's (EPN: 6) net heating value above 300 BTU/scf. (category C4)	
2	Date: 07/28/2015 (1254545)	CN603315953
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.146(2) 5C THSC Chapter 382 382.085(b) FOP O-01561, General Terms & conditions PERMIT	
	Description: Failure to submit the annual Permit Compliance Certification (PCC) by the submittal due date (Category B).	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) FOP O-01561 General Terms & conditions PERMIT	

Description: Failure to submit Deviation Report (DR) for the period Of October 15, 2014 to March 31, 2015 by the submittal date.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KURARAY AMERICA, INC.
RN100212216**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1693-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kuraray America, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a petrochemical plant at 11500 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted on July 31, 2015, TCEQ staff documented that the Respondent released 27,372 pounds ("lbs") of volatile organic compounds, including 15,178 lbs of hazardous air pollutants, from the Loading Rack Fugitives, Emission Point Number Area 5, during an avoidable emissions event (Incident No. 216212) that occurred on June 22, 2015 and lasted four hours and 45 minutes. The emissions event began when the polymerization of waste material caused a pressure increase above valve settings which led to the venting of materials to the atmosphere. The TCEQ determined that the emissions event could have been avoided through better operational practices.
4. The Respondent received notice of the violations on October 15, 2015.
5. The Executive Director recognizes that by June 24, 2015, the Respondent has implemented the following corrective measures at the Plant in order to prevent the recurrence of emissions events due to the same or similar cause as Incident No. 216212:
 - a. Increased the amount of inhibitor to five gallons of Nalco EC-3085A as a waste load inhibitor;
 - b. Implemented a maximum storage temperature of 100 degrees Fahrenheit; and
 - c. Updated the assigned responsibility and prescribed temperature and inhibitor amount in the waste loading procedures.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 7, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O1561, Special Terms and Conditions No. 16, New Source Review Permit No. 9576, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Since the emissions event could have been prevented by better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Twenty-Five Thousand Dollars (\$25,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Twelve Thousand Five Hundred Dollars (\$12,500) of the administrative penalty and Twelve Thousand Five Hundred Dollars (\$12,500) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Five Thousand Dollars (\$25,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kuraray America, Inc., Docket No. 2015-1693-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Twelve Thousand Five Hundred Dollars (\$12,500) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



6/29/16
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Kuraray America, Inc. I am authorized to agree to the attached Agreed Order on behalf of Kuraray America, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Kuraray America, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



2/22/2016
Date

Robert Armstrong
Name (Printed or typed)
Authorized Representative of
Kuraray America, Inc.

Plant Manager - EVAL
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2015-1693-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kuraray America, Inc.
Penalty Amount:	Twenty-Five Thousand Dollars (\$25,000)
SEP Offset Amount:	Twelve Thousand Five Hundred Dollars (\$12,500)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor ("HRM") 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Kuraray America, Inc.
Agreed Order - Attachment A

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.